

Sacramento County Agricultural Commissioner
Pesticide Use Enforcement
Program Planning & Evaluation Guidance
Calendar Years 2009 – 2012
(Revised 2010 due to budget cuts)

A. Resources

B. Restricted Materials Permitting

Permit Evaluation

Current Permit Issuance Practices

Goal

Deliverables

Measure Success

Site-Monitoring Plan

Current Site Monitoring Practices

Goal

Deliverables

Measure Success

C. Compliance Monitoring

Comprehensive Inspection Plan

Current Inspection Program

Goal

Deliverables

Measure Success

Investigation Response & Reporting Improvement

Current Investigation Program

Goal

Deliverables

Measure Success

D. Enforcement Response

Current Enforcement Response Practices

Goal

Deliverables

Measure Success

A. Resources

Urban PUE Deputy – 60% of time in PUE*

Rural Deputy – 56% of time in PUE

Agricultural/Standards Inspectors

2 rural geographically assigned inspectors

North area/Delta (DS) inspector – 66% of time in PUE

Walnut Grove (KV) inspector – 75% of time in PUE

1 urban inspector – (DA) 80% of time in PUE*

*The urban PUE program lost 3 inspectors in 2009 and 1 inspector in 2010 due to budgetary constraints and there is no projected replacement date for those positions. The 4 inspector positions lost spent 22%, 83%, 83% & 93% of their time in PUE so the reduction is significant to the program. Due to budget cuts (personnel layoffs) the overall PUE program is now staffed at 53% of the 2008 level and the urban PUE program is now staffed at 32% of the 2008 level. (Numbers of projected inspections and lengthened timelines will reflect these losses.)

Sacramento currently has 3 computers with GIS capabilities – 1 in the main office, 1 in the Galt field office, and 1 in the Walnut Grove field office

Enforcement and compliance actions are written by the inspector & Urban PUE deputy assigned to the main Sacramento office & reviewed/approved by the Urban PUE Deputy

B. Restricted Material Permitting

Permit Evaluation

Current Permit Issuance Practices

The majority of the non-ag permits are issued from the main Sacramento office by appointment

The ag production permits are issued both in the field or from the field offices depending on the situation and the biologists' knowledge of the site

Permits issued in the main office are issued directly from the computer

Permits issued in the field and field offices are most often issued on handwritten forms and then later entered into the computer

Permits for restricted materials are issued to the operator of the property to be treated for ag permits or to licensed registered pest control businesses for urban non-ag permits. The permits are signed by the permittee or an authorized representative (3 CCR Section 6420). When signed by an authorized representative, written documentation of that authorization is required. Permittees agree that they have considered feasible, reasonable, and effective mitigation measures when using

pesticides that require permits. All ag permits are site specific and issued for a period of one year or less. Permits issued to pest control businesses or other non-ag entities are not necessarily site specific but are also valid for a period of one year or less. Sacramento County does not issue any multi-year restricted materials permits. The permits may be issued directly from the computer or on the approved form filled out by hand. When handwritten permits are issued, the information is entered into the computer as soon as is practicable. The permits are signed and dated by the issuing biologist. Permit conditions are issued at the time of permit issuance and in most cases are either pesticide specific and or site specific. Permits are generally only issued to licensed or certified individuals. In cases where the permittee is not licensed or certified, the restricted material permit is conditioned so that the material may only be applied by a licensed, registered pest control business. Permits are only issued by biologists with the pesticide regulation license.

Permittees are required to file a Notice of Intent (NOI) at least 24 hours prior to start of application of a restricted material in Sacramento County. NOIs may be submitted by phone (a recorded line), fax, mail, or in person. A log of received NOIs is maintained at the main office and at both field offices (Galt & Walnut Grove). The NOI requirement may be waived by our office in the case of urban pest control businesses that make large numbers of applications every month and have a good compliance record. This waiver is only granted after a minimum of an annual application inspection indicates no non-compliances. A NOI with less than 24 prior notice may be approved when the commissioner (or biologist) determines, due to the nature of the commodity or pest problem, effective control cannot be obtained or it is determined 24 hours are not necessary to adequately evaluate the intended application. The determination is noted on the NOI log.

Permits are evaluated to determine if an adverse environmental impact or health hazard may result, at the time of issuance and when a notice of intent is received. Sacramento County uses a computer software geographic information system (GIS) to help evaluate environmental concerns for sites identified on permits. This year we are planning on switching software to AgGIS for issuing our operator IDs and restricted materials permits. This will allow us to continuously update our GIS database and hopefully make it a more effective tool for evaluating various pesticide application sites. A permit or NOI is denied or conditioned recognizing and utilizing appropriate mitigation measures. Appropriate mitigation considered includes but is not limited to: knowledge of local conditions, pest management guidelines, restricted material hazards, pesticide information series, locally developed permit conditions, laws and regulations, nearby high hazards (to both human exposure and damage to environment or other non-target sites).

Goal

Sacramento County's goal is to provide the best service available to permit applicants while providing a comprehensive and thorough evaluation of the situation and making informed and well thought out decisions when determining when, where or if restricted materials should be used. The goal is prevention or control of pests with protection of people, animals and the surrounding environment.

Improvement in several areas could make this goal more easily attainable. These areas include updated GIS software, faster computers and printers, and more staff to make service more timely.

Deliverables

We have upgraded the software that we use to issue permits and update GIS maps to AgGIS, the program offered by Pat Way. This allows us to keep our GIS information updated at the same time that we issue permits and will greatly reduce the time required to keep the GIS database current. Implementing this new software has slowed down the permit process in the short term but after we become familiar with the program, it should eventually either speed up the process and/or improve the quality of our permits and operator IDs.

Measures of Success

The best measure of success of this program is a lack of problems associated with restricted material use in our county. We will continue to evaluate our permit program on an on-going basis to watch for areas needing improvement. The deliverables mentioned above will help keep the databases that we use for evaluation purposes more current, speed up the permit issuance process in the long run, and hopefully result in a more consistent permit (maps).

Site-Monitoring Plan

Site Monitoring Plan Development

Licensed staff monitors ag production permits by performing pre-application inspections as required by 3CCR Section 6436. A minimum of 5% of the sites for which restricted materials are permitted will have pre-application inspections performed on them when NOIs indicate that restricted material application is imminent. In 2008 we performed pre-application inspections on 8.2% of all the agricultural production NOIs received and 5.2% of all agricultural NOIs. This monitoring includes a review of the written recommendation if there is one for the application. Priorities for performing these inspections include but are not limited to:

toxicity of the pesticide to be applied (Category I being the highest priority), proximity to high hazard areas (such as schools, homes, farm labor camps, or ag-urban interface), environmental concerns (endangered species, groundwater protection), proximity to sensitive crops, areas that have been problems in previous years, Section 18 registrations, etc. All non-production ag permit holders are subject to application inspections every year (as much as is practicable). Permit holders with a history of non-compliance are monitored more frequently if possible.

Inspections are entered in a pesticide use enforcement database to make it easier to track which permit holders are due for inspection. The hard copies of the inspections are filed in the individual's permit file. All non-compliances noted on any inspection forms are entered into the database and addressed as later noted in the Enforcement Response.

Goal

Sacramento County's goal is a commitment to implement measures that ensure a site-monitoring plan that takes into consideration pesticide hazards such as toxicity, formulation, volatility, proximity to sensitive crops, proximity to high hazards (homes, schools, farm labor camps, ag-urban interfaces etc.), proximity to environmentally sensitive sites, groundwater protection issues, local conditions cropping and fieldwork patterns, and compliance histories of the parties involved in pesticide use.

Deliverables

- Review all NOIs to ensure:
 - A valid RMP exists for the application and site
 - Pesticide is appropriate for the pest to be controlled
 - Surrounding areas will not be adversely affected by application
 - No high hazard situation exists
 - Crop, site, rate, dilution, and method of application are label compliant
- All NOIs are reviewed and approved or disapproved by licensed staff
- NOIs that are denied will be documented on NOI denial form and indicated on the PRAMR
- Monitor 5% of the agricultural production NOIs received with pre-application site inspections
- Rice monitoring program
 - Conduct and document water hold inspections to assure that no illegal releases occur
 - Monitor rice pesticide applications to ensure compliance with worker safety, buffer zone requirements and permit conditions
 - Work cooperatively with other Sac Valley rice producing counties to ensure consistency in program

- Prepare and deliver rice program reports at end of growing season to help evaluate the current year and make plans for the following year
- Agriculture/urban pesticide applications
 - Monitor agricultural applications to ensure safety to workers, the public, the environment, and non-target properties, particularly in high sensitivity areas such as ag-urban interface situations.
- Groundwater Protection Areas
 - Ensure when issuing permits that GWP materials are not issued in GWPA or that permittee can meet all GWPA conditions
 - Monitor applications in GWPA to ensure that regulated materials are not applied or are only applied when permit conditions are met
- Address problem areas with timely follow-up inspections and training when indicated

Measures of Success

The measure of success will be the ongoing evaluation of our site – monitoring plan for problems associated with restricted material use. Complaints and investigations will indicate a possible need for revision to our plan. In such cases, or if indicated by our DPR EBL, we will assess and amend our site-monitoring plan as needed. This may include focusing on different pesticides, cropping situations, newly indicated sensitive areas, or other environmental concerns. We will document any changes to the plan when and if they are needed.

C. Compliance Monitoring

Comprehensive Inspection Plan

Current Inspection Program

Sacramento County's inspection program evaluation reveals that 41% of our inspections are scheduled. These are primarily headquarters and records inspections for our growers, pest control businesses, government agencies, and other licensees. Most of these inspections are scheduled because we have found this to be the most efficient means of performing these inspections and have found that in general the number or non-compliances revealed during these inspections is not affected by whether the inspection is scheduled or unannounced. The exception would be in the case of a complaint, in which case the inspection would always be unannounced. Targeted inspections comprise another 43% of our inspections. These inspections are prioritized by chemical hazard, environmental concerns, historical applications that have shown problems, and applicator compliance

history. The remaining 16% of our inspections are more random and focus on general applications.

Due to the significant decrease in urban PUE staff, we will have to revise our inspection schedule goal as follows:

- Headquarters/records inspections for businesses without employees & without violations on their most recent inspection – every 3-4 years
- Headquarters/records inspections for businesses with employees & without violations on their most recent inspection – every 3 years
- Headquarters/records inspections for businesses with or without employees that have violations on their most recent inspection – follow-up inspection within 60 days and inspection the following year
- Continue to do application inspections annually for those agencies & businesses that have current restricted materials permits (required by regulation)
- Application & mix/load inspections as possible with emphasis on those agencies & businesses that have had recent violations

Analysis of our inspection activities during 2008 shows that 3.1% of all items inspected were not in compliance. 2.4 % of the items inspected during pesticide use monitoring inspections were not in compliance. 3.6% of the items inspected during pest control records inspections were not in compliance and 3.3% of the items inspected during structural pest control inspections were not in compliance.

Comparisons of pesticide applications by pest control businesses and property operators show that .5% of items inspected for property operators were not in compliance whereas 5.5% of items inspected for pest control businesses were not in compliance. In the area of headquarter inspections, growers show that 10% of items inspected were not in compliance and pest control businesses show that 4.0% of items inspected were not in compliance. Other headquarters inspections, such as government agencies, golf courses, etc. show that 2.1% of the items inspected were not in compliance.

The current compliance monitoring program strengths are:

- An effective targeted inspection plan utilizing the following components:
 - An up to date non-compliance tracking database
 - Documented NOI tracking in each of the offices
- Enforcement districts are assigned to inspectors, which allow them to become intimately familiar with pesticide usage and cropping patterns in those areas.

- Increased compliance monitoring activities at sites near areas identified to be environmentally sensitive such as schools, daycare centers and wildlife areas.
- A scheduled inspection process that is effectively identifying non-compliances during headquarters and records inspections.

Areas identified as needing improvement are:

- Frequency of grower headquarters inspections needs to be increased to every other year for those with employees that handle pesticides and every third year for the remaining growers.
- We are still working on becoming more uniform in our enforcement implementation throughout the county – both urban and rural areas.

Goal

Sacramento County's goal is to implement a comprehensive compliance inspection plan, based on the findings of the evaluation above, to ensure pesticide uses are adequately monitored throughout the county.

Deliverables

- Continue to maintain records indicating which growers have employees that handle pesticides and increase their headquarter inspection frequency to every other year and try to increase their pesticide use monitoring inspections to annually.
- When multiple worker safety violations are discovered during application inspection activities, a follow-up headquarters inspection will be performed where feasible. If the grower is headquartered in another county, that county will be notified of the problem and a headquarter inspection will be requested.

Based on our inspection program evaluation, the following inspection goals have been determined for the next two fiscal years:

Pesticide Use Monitoring Inspections	(per year)
Pre application Inspections	5%
Application inspections	
Property Operators	27
Pest Control Businesses	37
Field Fumigations	8
Commodity Fumigations	12
Field Worker Safety	5

Mix Load	
Property Operators	8
Pest Control Businesses	5
Rice Water Holding Inspections	15
Pest Control Records Inspections	
Business Records Inspections	34
HQ/Employee Safety – Business	34
Dealer Records Inspections	4
Adviser Records Inspections	10
HQ/Employee Safety – Production Ag.	20
HQ/Employee Safety – Other	22

Structural Pest Control Inspections

Structural Application Inspections	
Branch 1 Fumigation	6
Branch 2	10
Branch 3	1
Mix Load	
Branch 2	1
Branch 3	0
HQ/Employee Safety - Structural	27
Structural Business Records	27

We will decrease many of our previous inspection goals due to significant losses in staffing. Rice water holding inspections may continue to decrease based on a decrease in rice acreage and a corresponding decrease in usage of pesticides requiring water holding.

Targeted surveillance activities will be carried out during the rice pesticide program as in past years although our rice acreage has declined dramatically. The inspector assigned to the rice area is helping with coverage in the Delta but with decreasing acreage in the Natomas area, this has not proven to be problem to date. We will also perform targeted surveillance when needed as determined by environmental concerns and applicator compliance history. Targeted inspections will be used to most efficiently focus manpower on areas of the enforcement program to improve compliance within the county.

The urban pesticide deputy will completely review all inspection reports and activities of the enforcement personnel. As in previous years, all non-compliances will be tracked and followed up on as required.

Measures of Success

The goal of a comprehensive inspection plan is to increase compliance. A decrease in the percentage of non-compliances noted can be an indicator of success if all other things are equal. Striving to increase the effectiveness of our compliance activities by further refining focused and targeted inspection

schemes may in the short term, increase the number of non-compliances identified but in the long run, if successful, these should lead to a decrease in non-compliances. Periodic review by licensed staff and by our DPR EBL will help in analyzing our measure of success in this program.

Investigation Response and Reporting Improvement

Investigation Response and Reporting

Sacramento County recorded formal investigation of 29 pesticide episodes in calendar year 2008. Our turn-around time for investigations improved significantly from the previous fiscal year however, now with a significant decrease in the staff that is primarily responsible for investigations, an increase in time needed to complete investigations is expected. Quality of investigations should not be significantly affected by the loss of staff. Last year, no investigation reports were returned to Sacramento County for further information or lack of documentation indicating that the quality and completeness of all investigations was satisfactory to DPR.

The current investigation response process strengths are:

- Most investigations are performed by our primary investigator who is very experienced and has excellent writing skills. She is also fluent in Spanish making many interviews more accurate and easier to perform.
- The primary investigator has some laboratory and medical background which is beneficial in the number of antimicrobial investigations that we perform.
- A log is maintained of pesticide illness investigations that indicates their status and if they result in any enforcement action.

Areas identified as needing improvement are:

- Pesticide complaints other than those forwarded by DPR as pesticide illnesses are not consistently logged and tracked for completeness and documentation on Report 5
- This past year, the timeliness of completing investigations improved but we need to replace lost staff in order to maintain this level of timeliness.

Sacramento County has identified that our investigative response and reporting has resulted in thorough investigation of pesticide episodes and well written reports. The timeliness of their submission to DPR has improved. The follow-up on investigations that reveal non-compliances or workplace problems is good in that uneducated employers are given information that will help them come into compliance and those that are knowledgeable or in which the non-compliance contributed to the pesticide illness receive either a compliance or enforcement action appropriate to the situation.

Goal

Sacramento County's goal is to do a thorough unbiased investigation in a timely manner of every pesticide episode and to address and document all complaints received. It is our further goal to provide information and or training that will help prevent future pesticide episodes and compliance/enforcement actions that will encourage compliance with pesticide laws and regulations.

Deliverables

- Timely initiation and completion of all priority and non-priority investigations
 - Initiate priority investigations within 2 working days of receipt at CAC
 - Submit preliminary update on priority investigations to DPR within 15 days
 - Complete and submit all investigation reports within 120 days of receipt at CAC or if not possible due to extenuating circumstances, submit extension form explaining delay
 - Keep DPR EBL apprised of any delays in investigations
- Maintain an accurate and complete complaint log
 - Set up consistent paper flow so that all complaints are documented, submitted to and reviewed by PUE deputy and submitted to DPR on Report 5
- Keep staff trained in proper report writing techniques even if they are not the primary investigator
- Use and follow procedures in the Pesticide Episode Investigation Procedures Manual
- Maintain a pesticide illness investigation log that indicates:
 - Name of affected person
 - Employer if applicable
 - Type of exposure (agricultural, structural, antimicrobial, not pesticide)
 - Action taken (i.e. ACP, NOV, WL, Info sent, etc.)
 - Date report received
 - Date assigned to investigator
 - Investigator
 - Date reviewed by PUE deputy
 - Date submitted to DPR
 - Initials of DPR employee receiving investigation report
- Submit investigations that are complete and thorough and that contain adequate evidence if needed for appropriate enforcement action

Measures of Success

The best measure of success for this program is the yearly evaluation of our investigation and response reporting for deficiencies. Success would include completion and submission of all priority investigations within 60 days of notification of Sacramento County Agricultural Commissioner's Office and completion and submission of all other investigations within 120 days. The number of returned or incomplete investigations will also show a direct correlation to the success of this program.

D. Enforcement Response

Enforcement Response Evaluation

Current Enforcement Response Practices

Inspections and investigations (pesticide illness investigations & complaints) are reviewed by the Deputy. Those that indicate a non-compliance are set aside for the next PUE staff meeting. PUE staff meetings are held approximately every two weeks and at these meetings issues related to PUE staff are reviewed as well as any non-compliances that have not previously been reviewed.

At the staff meeting copies of the inspection or investigation are given to the inspector as well as a “rap” sheet for the company or grower showing their past action history. The non-compliance is reviewed by the inspector and the deputy with input from the other inspectors. The enforcement response regulations are used to determine the range of appropriate actions. The decision as to the appropriated action is made by the Deputy with input from any inspector that has information that is pertinent to that action.

During this meeting, the investigation or inspection is reviewed to ensure that adequate evidence is present to prove any cited violations. If the evidence is inadequate to prove the violation, the case is returned to the inspector for further investigation or if inadequate evidence is available, the case is returned to the inspector to write a justification as to why we are not taking any type of enforcement response relating to the non-compliance. All non-compliances are addressed and whatever action or inaction response is documented.

Actions, whether they are compliance or enforcement actions, are written by the urban PUE inspectors or PUE deputy. The actions are then reviewed by the PUE Deputy and signed by the Commissioner.

If a civil penalty action is taken, the fine guidelines found in Title 3 CCR Section 6130 are applied to determine the appropriate fine.

Compliance and enforcement actions are to be completed and turned into the Deputy for review prior to the next PUE staff meeting (approximately 2 weeks). In most cases, actions should be mailed out of this office to the respondent within 30 days of the inspection or completion of investigation.

A member of our support staff is responsible for maintaining a log of all compliance and enforcement actions: status, certified mailing, etc. This log is reviewed by the Deputy every month when preparing Report 5.

Program Strengths

When properly followed (and not interrupted by other office emergencies), these practices result in a timely response to non-compliances. The timeliness of our actions continues to be good.

Use of PUE inspectors when deciding actions helps to get all the mitigating factors out on the table prior to taking an action and also results in more even and consistent enforcement.

Review of evidence at the PUE staff meetings & returning those with inadequate evidence, helps inspectors to understand what level of evidence is needed to prove a non-compliance and leads to more complete future inspections or investigations.

Documentation of review of all non-compliances is desirable if our program is ever monitored by the public and also during oversight or our program by DPR.

Areas Needing Improvement

Sometimes non-compliances that are brought to light through some means other than inspection or investigation do not get addressed in as timely a manner as those previously mentioned. Because actions are written by urban pesticide enforcement staff which has been cut significantly, actions from the rural areas of the county do not get completed in the same timely manner as urban actions, however, due to additional non-PUE related responsibilities of the Urban PUE Deputy, this may not improve in the foreseeable future.

Goal or Objective

The goal of the enforcement response plan summarized above is to provide a swift and fair response to non-compliances that results in future compliance by the respondent. The actions must be consistent and fair in order to maintain the respect of the regulated industry as well as maintaining the integrity of this office.

Deliverables

- Consideration of all appropriate enforcement options
 - Application of the Enforcement Response Regulation
 - Use of Citable Sections as resource
 - Application of the Fine Guidelines

- Timely response
 - Set PUE staff meetings on regular schedule
 - Oversee support staff to be sure actions are sent out immediately upon signature of the Commissioner
- Steps County undertakes to follow through on pending action
 - At beginning of each meeting review actions approved at last meeting to see that all have been completed and submitted to Deputy for review
 - Deputy maintains copy of any outstanding non-compliances to ensure the actions are completed in a timely manner.
- Schedule or Milestones
 - Day 1 - Inspection or investigation completion with evidence of non-compliance
 - Day 2 – Turn in to Deputy for review and entry into computer
 - Day 2 – 14 – Inspection reviewed by Deputy, entered into computer, if non-compliances noted “rap” sheet is generated and copies are made for the PUE staff meeting
 - Day <15 – PUE meeting held where non-compliance is reviewed and action decision is made, returned to inspector for action
 - Day 15 – 31 – Action written and submitted to Deputy for review – if compliance action, it is then forwarded to support staff for mailing – if enforcement action, it is then forwarded to the Ag Commissioner for signature and then support staff for certified

Measures of Success

The best measure of success of the enforcement response program is the resulting compliance record of those entities that have been affected by the program. We will monitor the compliance history of those companies that have been on the receiving end of our enforcement response program to see if their compliance has indeed increased. There should also an improvement in the compliance of other entities that have not been directly affected by our enforcement response program just through word-of-mouth but that would be difficult if not impossible to measure in many cases.

An example would be the timeliness of Pesticide Use Report (PUR) submissions. When we adopted a vigorous enforcement response program for late submission, the timeliness of PUR submission improved dramatically over a year long period.

We will continue to review program priorities and make adjustments and improvements as warranted and where feasible.

This work plan has been reviewed and approved by Frank Carl, Agricultural Commissioner.